

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CYTOLOGIX CORPORATION,

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,

Defendant.

CIVIL ACTION NO. 04-11783 (RWZ)

**DEFENDANT'S ASSENTED-TO MOTION
FOR LEAVE TO EXCEED PAGE LIMIT**

Defendant Ventana Medical Systems, Inc. hereby moves the Court for leave to file a memorandum in opposition to plaintiff CytoLogix Corporation's pending combined motion for summary judgment and claim construction, in excess of 20 pages but not to exceed 30 pages. As grounds for this motion, Ventana states as follows:

1. On December 13, 2005, CytoLogix filed its Combined Motion for Claim Construction and Summary Judgment of Infringement. CytoLogix alleges infringement of U.S. Patent No. 6,541,261 ("the '261 patent"). CytoLogix's combined motion raises issues relating to the proper construction of the asserted patent claims, as well as the operation of the accused devices in relation to the claims as properly construed.

2. The parties have not previously briefed the issue of claim construction in this case. Because CytoLogix must prove that the accused devices perform every element of the asserted claims as properly construed, CytoLogix's combined motion necessarily raises multiple issues of claim construction and multiple issues of patent infringement.

3. In this case, there is a wide range of evidence relevant to the issue of claim construction for the '261 patent. This evidence includes the prosecution history of the application for the '261 patent (which spanned 3 years); the prosecution history of the parent application to the '261 patent (which spanned 3 years); the prosecution history of the reexamination proceedings for the parent application to the '261 patent (which is ongoing); and the testimony of the inventors of the '261 patent, whose depositions were recently taken in this case.

4. The Court has provided for (and Ventana assented to) a reply brief by CytoLogix. Therefore, CytoLogix already has been granted an opportunity to file briefs that cumulatively will be in excess of 20 pages.

5. Ventana believes that the discussion set forth in the additional pages of its memorandum will help the Court to understand the complex issues raised by CytoLogix's combined motion.

WHEREFORE, Ventana respectfully requests that the Court grant leave to file a memorandum in opposition to CytoLogix's pending combined motion for summary judgment and claim construction, in excess of 20 pages but not to exceed 30 pages. A copy of Ventana's memorandum is attached hereto as Exhibit A.

Dated: April 4, 2006

VENTANA MEDICAL SYSTEMS, INC.

By its attorneys,

/s/ Roger J. Chin

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LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel hereby certifies, in accordance with Local Rule 7.1(A)(2), that prior to filing this motion the parties have conferred and attempted in good faith to resolve or narrow the issues presented herein. Plaintiff has assented to this motion.

/s/ Roger J. Chin

Roger J. Chin

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on April 4, 2006.

/s/ Roger J. Chin

Roger J. Chin